



A REPORT  
TO THE  
MONTANA  
LEGISLATURE

FINANCIAL-COMPLIANCE AUDIT

# *Office of State Public Defender*

*For the Two Fiscal Years  
Ended June 30, 2008*

NOVEMBER 2008

LEGISLATIVE AUDIT  
DIVISION

08-28

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# LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor  
Monica Huyg, Legal Counsel



Deputy Legislative Auditors  
James Gillett  
Angie Grove

November 2008

The Legislative Audit Committee  
of the Montana State Legislature:

This is our financial-compliance audit report on the Office of State Public Defender for the two fiscal years ended June 30, 2008. Included in this report are issues related to correctly and completely recording revenue and paying witnesses according to state law.

We thank the Chief Public Defender and office staff for their assistance and cooperation during the audit.

Respectfully submitted,

*/s/ Tori Hunthausen*

Tori Hunthausen, CPA  
Legislative Auditor



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## APPOINTED AND ADMINISTRATIVE OFFICIALS

### Public Defender Commission

	<u>Term Expires</u>
Tara Veazey, Chair	July 1, 2010
Stephen Nardi, Vice-Chair	July 1, 2009
Caroline Fleming	July 1, 2008
Jennifer Hensley	July 1, 2011
Wendy Holton	July 1, 2010
Vic Miller	July 1, 2009
Kenneth Olson	July 1, 2011
Majel Russell	July 1, 2009
William Snell	July 1, 2010
Mike Sherwood	July 1, 2010
James Taylor	July 1, 2011

### Office of State Public Defender

Randi M. Hood, Chief Public Defender  
 James Wheelis, Chief Appellate Defender  
 Harry Freebourn, Administrative Director

For additional information concerning the Office of  
 State Public Defender contact:

Harry Freebourn, Administrative Director  
 Office of State Public Defender  
 44 West Park Street  
 Butte, MT 59701  
 (406) 496-6080  
 e-mail: hfreebourn@mt.gov





REPORT SUMMARY

**Office of State Public Defender**

This report documents three recommendations made as a result of issues noted during our financial-compliance audit of the Office of State Public Defender (office) for the two fiscal years ended June 30, 2008. The previous audit report contained no recommendations to the office.

We issued a qualified opinion on the financial schedules presenting revenue in this report. This means the reader should use caution when relying on the presented financial information and the supporting detailed information on the primary accounting records related to revenues.

The listing below serves as a means of summarizing the recommendations contained in the report, the office’s response thereto, and a reference to the supporting comments.

Recommendation #1 .....3

We recommend the office properly record revenue transactions according to state policy.

Office Response: Concur ..... B-3

Recommendation #2 .....5

We recommend the office implement controls to ensure court assessment activity is recorded according to state policy.

Office Response: Concur ..... B-4

Recommendation #3 .....6

We recommend the office pay witnesses a \$10 a day fee, plus mileage, as required by state law sections 26-2-501, 26-2-502, and 26-2-503, MCA.

Office Response: Concur ..... B-4



# Chapter I –Introduction and Background

## Introduction

We performed a financial-compliance audit of the Office of State Public Defender (office) for the two fiscal years ended June 30, 2008. The objectives of the audit were to:

1. Obtain an understanding of the office's control systems to the extent necessary to support our audit of the office's financial schedules and, if appropriate, make recommendations for improvements in management and internal controls of the office.
2. Determine if the office complied with selected laws and regulations.
3. Determine if the financial schedules present fairly the results of operations of the office for each of the fiscal years ended June 30, 2008, and June 30, 2007.

Auditing standards require us to communicate, in writing, control deficiencies we identified as a result of audit objective #1 above and considered to be significant or material. A control deficiency exists when the design or operation of a control does not allow management or employees to prevent or detect misstatements on a timely basis. A significant deficiency is one or more control deficiencies that affects management's ability to accurately process transactions. A material weakness is one or more significant deficiencies that adversely affect management's ability to fairly present its financial schedules.

Table 1 below outlines the status of significant deficiencies and material weaknesses we identified during this audit.

<b>Table 1</b> <b><u>Summary of Control Deficiencies</u></b>			
Subject	Significant Deficiency	Material Weakness	Page
Court Assessments	Yes	No	4

This report contains three recommendations to the office. In accordance with section 5-13-307, MCA, we analyzed and disclosed, if significant, the costs of implementing the recommendations made in this report. Other areas of concern deemed not to have a significant effect on the successful operations of the office are not specifically included in the report, but have been discussed with management.

## **Background**

The 59th Legislature created the Public Defender Commission (commission). The commission is comprised of 11 members appointed by the Governor who serve 3-year staggered terms. The commission supervises the statewide public defender system and the Office of State Public Defender administers the system. The commission also appoints a Chief Public Defender who is the head of the office and is charged with hiring staff to perform the functions of the office. The statewide public defender system is comprised of two programs.

### **Public Defender Program (184.50 authorized FTE)**

The program is organized into 11 regions with a deputy regional public defender supervising each region. A central office in Butte oversees and supervises all regions. The regional offices employ and/or contract with attorneys to provide representation as needed. The regional offices are located in Kalispell, Missoula, Great Falls, Helena, Butte, Havre, Lewistown, Bozeman, Billings, Glendive, and Miles City.

### **Appellate Defender Program (8 authorized FTE)**

The program provides appellate representation to clients of the statewide public defender system and is located in Helena. The appellate program assists in the representation of indigent clients who qualify for an appointed attorney under state statutes governing post conviction relief. Prior to July 1, 2006, the program was a part of the Department of Administration.

### **Prior Audit Recommendations**

The prior audit for the fiscal year ended June 30, 2006, did not contain any recommendations to the office.

## Chapter II –Findings and Recommendations

### County Payments

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#### **The office incorrectly recorded payments from counties for leave balances.**

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The State assumed the public defender system from the counties effective July 1, 2006. As part of the assumption, county public defenders were allowed to stay a part of the public defender system and transfer to the new state system. Section 69 of Senate Bill 146 of the 2005 Legislative Session required counties to pay the state, through the office, for leave balances assumed by the state for any employees who chose to transfer. In total, \$176,431 was due to the state, one half of which was due on January 1, 2007, and the other half was due on January 1, 2008. However, some counties chose to pay their entire obligation in fiscal year 2006-07, leaving a balance due at January 1, 2008, of \$61,619. At June 30, 2007, the office had a valid receivable for the \$61,619 and recorded an account receivable and revenue accrual for this amount.

State policy specifies what entries to make regarding revenue accruals. Revenue that is not available within 60 days after the state's fiscal year-end should be recorded as deferred revenue rather than revenue. The entry made by the office did not record deferred revenue. As a result, Budgeted Revenues in the General Fund are overstated by \$61,619 in fiscal year 2006-07 and understated by this amount in fiscal year 2007-08 on the Schedules of Revenues & Transfers-In. Office personnel consulted with the appropriate state sources for guidance on the correct recording of the transactions and thought they followed their guidance. However, according to state policy deferred revenue should have been recorded.

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#### **RECOMMENDATION #1**

*We recommend the office properly record revenue transactions according to state policy.*

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## **Court Assessments**

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### **The office does not have controls in place to ensure court assessment transactions are properly recorded.**

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The office receives payments from clients who are ordered by the court to pay an assessment for the public defender services they received. During the audit, we noted the office did not have sufficient controls in place to track or monitor these assessments until May or June of 2007. In fiscal year 2007-08 we were able to test the controls. However, we noted the following errors were made when revenue from assessments outstanding or collected was recorded.

The office recorded the collections as Miscellaneous revenue in fiscal year 2006-07 and 2007-08. Since these collections are intended to reimburse the office for the costs of a public defender, state policy indicates they should be recorded as Charges for Services. The office made correcting entries in fiscal year 2007-08 to move the activity from the Miscellaneous revenue class to the Charges for Services class. However, on the fiscal year 2006-07 Schedule of Revenues & Transfers-In, the Miscellaneous revenue class is overstated by \$10,750 and Charges for Services is understated by the same amount. Office personnel stated they used the account originally set up by another state agency who provided the accounting for the office prior to the office hiring an accountant. We reviewed state accounting policy and determined the nature of the revenue does not meet the definition of Miscellaneous revenue as recorded by the office.

The assessments noted above also vary by court, in both whether or not they are imposed and the amount. The terms of payment can also vary depending on the sentence for the client. Payments may be due immediately or up to 80 years later for clients who are sentenced to a prison term. In fiscal year 2007-08, the office used a spreadsheet to track the amounts and terms of the assessments and then recorded revenue on the state's accounting records when collections were received. The office's only record of the assessment was through its tracking spreadsheet. A receivable was not recorded on the accounting records at fiscal year-end for the assessments outstanding, as required by state accounting policy.

Office personnel stated they contacted one of the six county operations they assumed to determine how they accounted for the assessments. The county indicated it did not track any of the assessments or record a receivable. Additionally, the office noted they do not have any historical data to determine the collection rate on the assessments. As of May 2008, the office estimated a significant portion of the assessments would not be collectible. Based on their collectibility, the office chose to track the assessments off of the Statewide Accounting Budget and Human Resources System (SABHRS) and

record only actual revenue received on SABHRS. State law requires agencies to input all necessary transactions to the accounting system before fiscal year-end in accordance with generally accepted accounting principles. According to state policy, the office should record an accounts receivable for the amount due, an allowance for uncollectible accounts for the amounts not expected to be collected, and revenue or deferred revenue for the remaining amounts, depending on whether or not they expect collection within 60 days after the end of the fiscal year.

Subsequent to our discussion with office personnel in May 2008, the office recorded an account receivable and revenue for the outstanding court assessments. However, the office did not record deferred revenue for the portion expected to be collected more than 60 days after the end of the fiscal year. Based on assessments outstanding at June 30, 2007, and 2008, the following accounts are (under) or overstated by:

**Table 2**  
**Summary of Accounts Over (Under) Stated**

	<u>June 30, 2007*</u>	<u>June 30, 2008</u>
Accounts Receivable	(\$8,594)	
Allowance for Uncollectible Accounts	(\$8,164)	
Revenue	(\$72)	\$65,000
Deferred Revenue	(\$358)	(\$65,000)

\*The amounts as of June 30, 2007, pertain to assessments made since the office started operations on July 1, 2006. Subsequent year's amounts are expected to grow since the activity will include more than one fiscal year.

**Source: Compiled by the Legislative Audit Division from Office data.**

The accounting for the activity discussed above is addressed in state accounting policy. Office personnel should implement controls to ensure state policy is followed when making decisions on how to record activity.

## **RECOMMENDATION #2**

*We recommend the office implement controls to ensure court assessment activity is recorded according to state policy.*

## **Witness Fees**

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### **The office did not pay witness fees as required by state law.**

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Several state laws dictate compensation for subpoenaed witnesses for each specific type of court. In general, witness compensation includes \$10 a day, plus mileage, for attending a court action or proceeding. According to additional state laws, the party subpoenaing the witness is the party who is required to pay this witness compensation.

We discussed the state laws with employees of the 11 regions, as well as employees of the central office. We noted no instance where a witness was paid \$10 for an appearance. A witness was usually paid mileage if they were arriving from a city different from where the court appearance was held. Mileage was also paid to witnesses arriving from other states.

According to central office employees, the state inherited the public defender system from the counties. The office focused their efforts during their first two years of operation on managing their employees and contractors and monitoring their \$20 million budget. Compliance with this law was overlooked.

In fiscal year 2006-07, the office handled over 30,500 cases. Of these cases, approximately 300 to 400 go to trial and at most 250 of them would have a witness subpoenaed by the office. Based on this, we estimated the office should have paid approximately \$2,500 in witness fees.

As a result of our audit, as of September 2008 the office has drafted a policy on witness fees and intends to comply with state law in fiscal year 2008-09.

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### **RECOMMENDATION #3**

*We recommend the office pay witnesses a \$10 a day fee, plus mileage, as required by state law sections 26-2-501, 26-2-502, and 26-2-503, MCA.*

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# **Independent Auditor's Report and Office Financial Schedules**



Tori Hunthausen, Legislative Auditor  
Monica Huyg, Legal Counsel



Deputy Legislative Auditors  
James Gillett  
Angie Grove

## INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee  
of the Montana State Legislature:

We have audited the accompanying Schedules of Changes in Fund Balances, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Office of State Public Defender for each of the fiscal years ended June 30, 2008, and 2007. The information contained in these financial schedules is the responsibility of the office's management. Our responsibility is to express an opinion on these financial schedules based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, the financial schedules are prepared on the basis of Montana state accounting policy, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The schedules are not intended to be a complete presentation and disclosure of the office's assets, liabilities and cash flows.

In fiscal year 2006-07 the office recorded an accrual for revenue expected to be received from counties as required by state law. The office incorrectly recorded the accrual as revenue rather than deferred revenue. As a result, on the Schedule of Changes in Fund Balances, in the General Fund, Budgeted Revenues & Transfers-In, and the ending Fund Balance are overstated by \$61,619. On the Schedule of Revenues & Transfers-In, in the General Fund, Charges for Services, Total Revenues & Transfers-In, Actual Budgeted Revenues & Transfers-In, and Budgeted Revenues & Transfers-In Over (Under) Estimated are overstated by the same amount. In Fiscal year 2007-08, on the Schedule of Revenues and Transfers-In in the General Fund, Prior Year Revenues & Transfers-In is overstated by \$61,619 and Actual Budgeted Revenues & Transfers-In is understated by the same amount.

In fiscal year 2007-08, the office recorded an account receivable and revenue for the court assessments outstanding at June 30, 2008. Since the revenue was not expected to be received within 60 days of the end of the fiscal year, the offset should have been deferred revenue. As a result, on the Schedule of Changes in Fund Balances, Budgeted Revenues & Transfers-In and Ending Fund Balance are overstated by \$65,000 in the State Special Revenue Fund. On the Schedule of Revenues & Transfers-In, Charges for Services, Total Revenues & Transfers-In, Actual Budgeted Revenues & Transfers-In, and Budgeted Revenues & Transfers-In Over (Under) Estimate are overstated by the same amount in the State Special Revenue Fund.

In our opinion, except for the effects of the matters discussed in the preceding paragraph, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund balances of the Office of State Public Defender for each of the fiscal years ended June 30, 2008, and 2007, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

*/s/ James Gillett*

James Gillett, CPA  
Deputy Legislative Auditor

September 26, 2008

OFFICE OF STATE PUBLIC DEFENDER  
SCHEDULE OF CHANGES IN FUND BALANCES  
FOR THE FISCAL YEAR ENDED JUNE 30, 2008

	<u>General Fund</u>	<u>State Special Revenue Fund</u>
FUND BALANCE: July 1, 2007	\$ <u>(1,807,448)</u>	\$ <u>11,550</u>
ADDITIONS		
Budgeted Revenues & Transfers-In	238	99,203
Nonbudgeted Revenues & Transfers-In	2,031	
Prior Year Revenues & Transfers-In Adjustments		(407)
Direct Entries to Fund Balance	<u>20,060,620</u>	
Total Additions	<u>20,062,889</u>	<u>98,796</u>
REDUCTIONS		
Budgeted Expenditures & Transfers-Out	19,725,858	43,455
Prior Year Expenditures & Transfers-Out Adjustments	<u>(2,484)</u>	
Total Reductions	<u>19,723,374</u>	<u>43,455</u>
FUND BALANCE: June 30, 2008	\$ <u><u>(1,467,933)</u></u>	\$ <u><u>66,891</u></u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

OFFICE OF STATE PUBLIC DEFENDER  
SCHEDULE OF CHANGES IN FUND BALANCES  
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	<u>General Fund</u>	<u>State Special Revenue Fund</u>
FUND BALANCE: July 1, 2006	\$ <u>(295,808)</u>	\$ <u>0</u>
ADDITIONS		
Budgeted Revenues & Transfers-In	176,443	11,550
Nonbudgeted Revenues & Transfers-In	1,305	
Direct Entries to Fund Balance	<u>17,752,458</u>	
Total Additions	<u>17,930,206</u>	<u>11,550</u>
REDUCTIONS		
Budgeted Expenditures & Transfers-Out	19,441,538	
Prior Year Expenditures & Transfers-Out Adjustments	<u>308</u>	
Total Reductions	<u>19,441,846</u>	<u>0</u>
FUND BALANCE: June 30, 2007	\$ <u><u>(1,807,448)</u></u>	\$ <u><u>11,550</u></u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

OFFICE OF STATE PUBLIC DEFENDER  
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN  
FOR THE FISCAL YEAR ENDED JUNE 30, 2008

	<u>General Fund</u>	<u>State Special Revenue Fund</u>	<u>Total</u>
TOTAL REVENUES & TRANSFERS-IN BY CLASS			
Taxes	\$ 2,031		\$ 2,031
Charges for Services		\$ 98,796	98,796
Miscellaneous	238		238
Total Revenues & Transfers-In	<u>2,269</u>	<u>98,796</u>	<u>101,065</u>
Less: Nonbudgeted Revenues & Transfers-In	2,031		2,031
Prior Year Revenues & Transfers-In Adjustments		(407)	(407)
Actual Budgeted Revenues & Transfers-In	<u>238</u>	<u>99,203</u>	<u>99,441</u>
Estimated Revenues & Transfers-In	62,536	74,999	137,535
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ (62,298)</u>	<u>\$ 24,204</u>	<u>\$ (38,094)</u>
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS			
Taxes	\$ (417)		\$ (417)
Charges for Services	(61,619)	\$ 23,797	(37,822)
Miscellaneous	(262)	407	145
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ (62,298)</u>	<u>\$ 24,204</u>	<u>\$ (38,094)</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

OFFICE OF STATE PUBLIC DEFENDER  
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN  
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	<u>General Fund</u>	<u>State Special Revenue Fund</u>	<u>Total</u>
TOTAL REVENUES & TRANSFERS-IN BY CLASS			
Taxes	\$ 1,305		\$ 1,305
Charges for Services	176,431		176,431
Miscellaneous	12	\$ 10,750	10,762
Grants, Contracts, Donations and Abandonments		800	800
Total Revenues & Transfers-In	<u>177,748</u>	<u>11,550</u>	<u>189,298</u>
Less: Nonbudgeted Revenues & Transfers-In	1,305		1,305
Prior Year Revenues & Transfers-In Adjustments			0
Actual Budgeted Revenues & Transfers-In	<u>176,443</u>	<u>11,550</u>	<u>187,993</u>
Estimated Revenues & Transfers-In	114,836	18,000	132,836
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ 61,607</u>	<u>\$ (6,450)</u>	<u>\$ 55,157</u>
 BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS			
Taxes	\$ (24)		\$ (24)
Charges for Services	61,619		61,619
Miscellaneous	12	\$ (2,250)	(2,238)
Grants, Contracts, Donations and Abandonments		(4,200)	(4,200)
Budgeted Revenues & Transfers-In Over (Under) Estimated	<u>\$ 61,607</u>	<u>\$ (6,450)</u>	<u>\$ 55,157</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.



OFFICE OF STATE PUBLIC DEFENDER  
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT  
FOR THE FISCAL YEAR ENDED JUNE 30, 2008

PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT	Appellate Defender Program	Public Defender Program	Total
Personal Services			
Salaries	\$ 382,435	\$ 8,041,086	\$ 8,423,521
Employee Benefits	119,451	2,534,587	2,654,038
Total	<u>501,886</u>	<u>10,575,673</u>	<u>11,077,559</u>
Operating Expenses			
Other Services	281,551	6,508,090	6,789,641
Supplies & Materials	3,589	244,138	247,727
Communications	15,087	264,660	279,747
Travel	855	133,139	133,994
Rent	28,050	912,785	940,835
Utilities		1,188	1,188
Repair & Maintenance	1,807	96,358	98,165
Other Expenses	300	74,303	74,603
Total	<u>331,239</u>	<u>8,234,661</u>	<u>8,565,900</u>
Equipment & Intangible Assets			
Equipment		27,525	27,525
Intangible Assets		95,845	95,845
Total		<u>123,370</u>	<u>123,370</u>
Total Expenditures & Transfers-Out	<u>\$ 833,125</u>	<u>\$ 18,933,704</u>	<u>\$ 19,766,829</u>
EXPENDITURES & TRANSFERS-OUT BY FUND			
General Fund	\$ 833,125	\$ 18,890,249	\$ 19,723,374
State Special Revenue Fund		43,455	43,455
Total Expenditures & Transfers-Out	<u>833,125</u>	<u>18,933,704</u>	<u>19,766,829</u>
Less: Nonbudgeted Expenditures & Transfers-Out			
Prior Year Expenditures & Transfers-Out Adjustments		(2,484)	(2,484)
Actual Budgeted Expenditures & Transfers-Out	<u>833,125</u>	<u>18,936,188</u>	<u>19,769,313</u>
Budget Authority	<u>833,146</u>	<u>18,969,343</u>	<u>19,802,489</u>
Unspent Budget Authority	<u>\$ 21</u>	<u>\$ 33,155</u>	<u>\$ 33,176</u>
UNSPENT BUDGET AUTHORITY BY FUND			
General Fund	\$ 21	\$ 1,610	\$ 1,631
State Special Revenue Fund		31,545	31,545
Unspent Budget Authority	<u>\$ 21</u>	<u>\$ 33,155</u>	<u>\$ 33,176</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

OFFICE OF STATE PUBLIC DEFENDER  
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT  
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	<u>Appellate</u> <u>Defender Program</u>	<u>Public</u> <u>Defender Program</u>	<u>Total</u>
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT			
Personal Services			
Salaries	\$ 330,969	\$ 7,240,016	\$ 7,570,985
Other Compensation		150	150
Employee Benefits	103,841	2,240,280	2,344,121
Total	<u>434,810</u>	<u>9,480,446</u>	<u>9,915,256</u>
Operating Expenses			
Other Services	295,206	7,319,302	7,614,508
Supplies & Materials	5,100	454,491	459,591
Communications	12,068	365,231	377,299
Travel	355	111,974	112,329
Rent	25,231	747,183	772,414
Utilities		1,635	1,635
Repair & Maintenance	419	31,440	31,859
Other Expenses	105	19,365	19,470
Total	<u>338,484</u>	<u>9,050,621</u>	<u>9,389,105</u>
Equipment & Intangible Assets			
Equipment	9,750	127,703	137,453
Total	<u>9,750</u>	<u>127,703</u>	<u>137,453</u>
Transfers			
Accounting Entity Transfers	32		32
Total	<u>32</u>		<u>32</u>
Total Expenditures & Transfers-Out	<u>\$ 783,076</u>	<u>\$ 18,658,770</u>	<u>\$ 19,441,846</u>
EXPENDITURES & TRANSFERS-OUT BY FUND			
General Fund	\$ 783,076	\$ 18,658,770	\$ 19,441,846
Total Expenditures & Transfers-Out	783,076	18,658,770	19,441,846
Less: Nonbudgeted Expenditures & Transfers-Out			
Prior Year Expenditures & Transfers-Out Adjustments	470	(162)	308
Actual Budgeted Expenditures & Transfers-Out	782,606	18,658,932	19,441,538
Budget Authority	782,880	18,659,046	19,441,926
Unspent Budget Authority	<u>\$ 274</u>	<u>\$ 114</u>	<u>\$ 388</u>
UNSPENT BUDGET AUTHORITY BY FUND			
General Fund	\$ 274	\$ 114	\$ 388
Unspent Budget Authority	<u>\$ 274</u>	<u>\$ 114</u>	<u>\$ 388</u>

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-11.

# Montana Office of the State Public Defender

## Notes to the Financial Schedules

### For the Two Fiscal Years Ended June 30, 2008

## 1. Summary of Significant Accounting Policies

### Basis of Accounting

The office uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund category, General and State Special Revenue funds. In applying the modified accrual basis, the office records:

- ♦ Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.
- ♦ Expenditures for valid obligations when the department incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the office to record the cost of employees' annual and sick leave when used or paid.

Expenditures may include: entire budgeted service contracts even though the office receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

### Basis of Presentation

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The office uses the following funds:

### Governmental Fund Category

- ♦ **General Fund** – to account for all financial resources except those required to be accounted for in another fund.
- ♦ **State Special Revenue Fund** – to account for proceeds of specific revenue sources that are legally restricted to expenditures for specific state program purposes. Office State Special Revenue Funds include collections for reimbursements of public defender fees as either part of a sentence or because the client was determined not indigent.

## **2. General Fund Balance**

The negative fund balance in the General Fund does not indicate overspent appropriation authority. The office has authority to pay obligations from the statewide General Fund within its appropriation limits. The office expends cash or other assets from the statewide fund when it pays General Fund obligations. The office's outstanding liabilities exceed the assets it has placed in the fund, resulting in negative ending General Fund balance for the two fiscal years ended June 30, 2008.

## **3. Direct Entries to Fund Balance**

Direct entries to fund balance in the General fund include entries generated by SABHRS to reflect the flow of resources within individual funds shared by separate agencies.

## **4. Related Party Transactions**

The office space of one regional public defender office is owned by the deputy public defender that manages that region. The office has use of this space at no charge and as such, rent expenditures as shown on the Schedules of Expenditures & Transfers-Out in fiscal years 2006-07 and 2007-08 do not reflect rental expenditures for that region. A region of similar size and location pays rent of approximately \$12,400 per year.

OFFICE OF STATE  
PUBLIC DEFENDER

OFFICE RESPONSE



# OFFICE OF THE STATE PUBLIC DEFENDER



BRIAN SCHWEITZER  
GOVERNOR

RANDI HOOD  
CHIEF PUBLIC DEFENDER

## STATE OF MONTANA

Phone: (406) 496-6080  
Fax: (406) 496-6098

44 WEST PARK STREET  
BUTTE, MONTANA 59701

November 14, 2008

Ms. Tori Hunthausen  
Legislative Auditor  
Legislative Audit Division  
P.O. Box 201705  
Helena, MT 59620-1705

**RECEIVED**

NOV 17 2008

**LEGISLATIVE AUDIT DIV.**

RE: Office of the State Public Defender FY 2007 – FY 2008 Legislative Financial Audit

Dear Ms. Hunthausen:

The management and staff of the Office of the State Public Defender would like to extend our sincere appreciation to you and your staff for the efficient audit of our agency's financial information for the 2007 and 2008 fiscal years. As you are aware, we are a new agency that began providing services to our clients on July 1, 2006. This audit was our first extensive financial audit and we applaud the efforts of your staff to get through all of the steps necessary to do a very thorough job. We would especially like to thank your lead auditor Jennifer Erdahl and her associates that included Jeane Carstensen-Garrett, Natalie Gibson, and Laura Norris.

Our responses to the audit recommendations in the report are as follows:

**Recommendation No. 1:** We recommend that the office properly record revenue transactions according to state policy.

**Agency Response:** We concur. As part of the state's assumption of county and city public defender activities, the agency collected funds for leave balances of county employees that became state employees. These funds were deposited directly into the general fund; they were not agency funds and were a one-time collection. However, the agency accounted for this revenue incorrectly. Recently, the agency has instituted a dual review process and a closing checklist to assure that all future revenues are recorded in accordance with state policy.

**Recommendation No. 2:** We recommend that the office implement controls to ensure court assessment activity is recorded according to state policy.

Ms. Tori Hunthausen  
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November 14, 2008

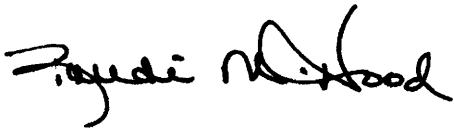
**Agency Response:** We concur. The agency has instituted the following controls to ensure court assessment activity is recorded according to state policy: (1) more than one person will review all revenue transactions to assure that assessments are recorded as revenues and that they are recorded as either current or deferred as per state policy; (2) the agency will track the rate of collection of client assessments and use trending data to record allowances for doubtful accounts; and (3) the agency has developed an accounting closing checklist to assure that errors of this nature do not occur in future accounting periods.

**Recommendation No. 3:** We recommend the office pay witnesses a \$10 a day fee, plus mileage, as required by state law sections 26-2-501, 26-2-502, and 26-2-503, MCA.

**Agency Response:** We concur. Statute requires that an agency that issues a subpoena to a witness must pay them a \$10 fee per day plus travel in accordance with state policy. The agency did pay travel but did not pay the daily fee. An agency survey of regional offices found that very few subpoenas are issued that would trigger this fee. However, in order to comply with the statutes, the agency has instituted a procedure to assure that all subpoenaed witnesses will be provided with a notice about how to collect this fee from the agency.

Thank you for the opportunity to review and respond to the recommendations.

Sincerely,



Randi M. Hood  
Chief Public Defender

cc: Tara Veazey, Chair, Montana Public Defender Commission  
Harry Freebourn, Administrative Director, Office of the State Public Defender